

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10479 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

MOHANLAL G PAWAR

Versus

GEB

Appearance:

MR DS VASAVADA for Petitioner
MR MD PANDYA for Respondent

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 24/09/97

ORAL JUDGMENT

1. Rule. Shri M..D.Pandya, learned counsel for respondent waives service of Rule on behalf of respondent. The matter is taken up for hearing on the request of learned counsel for the parties. Heard learned counsel for the parties.

2. The petitioner, an Engineer of the Gujarat Electricity Board (hereinafter referred to as 'Board'), filed this Special Civil Application and prayed for declaration that the respondent-Board has wrongly denied to him the benefit of higher grade as available to him in pursuance of General Standing Order (GSO) No.253. The petitioner, under the letter dated 27.6.88, has been informed that his case for grant of higher grade is not considered by the competent authority at this stage as his nine year's performance is not found satisfactory. Prayer has been made by the petitioner for quashing of that order also.

3. The petitioner entered in the service of the Board on 5.3.73 as Junior Engineer. On 1.2.79 he was promoted to the post of Deputy Engineer. He completed nine years' service on the post of Deputy Engineer on 1.2.88. The Standing Order No.253, copy of which is produced as annexure 'B', provides that an employee who has completed nine years service in the same cadre/post in a particular pay scale (pre-revised or revised) and who has not got promotion for no fault of his own on 1.8.1972 for want of clear vacancy or for want of channel of promotion or who may complete nine years service in the same cadre/post in a particular pay scale after 1.8.1972 shall be entitled to the promotion to the next higher pay scale from 1.8.1972 or from the date following the date on which he completes nine years service in the cadre/post as the case may be and his pay shall be fixed in that grade in accordance with S.R.No.102(b) irrespective of the fact whether suitable vacancies in the next higher post are available or not, subject to condition that the employee is otherwise fit for promotion on the basis of overall performance and he has passed the necessary examinations etc. The case of the petitioner is that he has unblemished service record to his credit. He has not been communicated any adverse remarks from 1.2.79 to 1.2.88, i.e. the relevant period for the purpose of grant of higher grade and as such, the decision given as contained in annexure 'C' to the Special Civil Application is not correct. The petitioner further stated that he made representations to the respondent from time to time, details of which are given in para-7 of the Special Civil Application, but not a single representation has been replied. The grievance of the petitioner is that when his service record was satisfactory and the criteria for giving of the benefit of higher pay scale was of seniority-cum-merit, the decision as contained in annexure 'C' is wholly arbitrary and unjustified.

4. Reply to this Special Civil Application has not been filed and as such, nothing has been produced on record to show what adversities were there in the service record of the petitioner which were taken to be sufficient for the purpose of denying the benefits of higher pay scale. Not only this, the respondent has not denied the fact that the petitioner made representations against the order annexure 'C', but the same have not been decided.

5. Taking into consideration the totality of the facts of this case, interest of justice will be served in case this Special Civil Application is disposed of with directions to the respondent-Board to decide the representations of the petitioner which he filed against the order annexure 'C' dated 27th June 1988, within a period of four months from the date of receipt of writ of this order and in case the petitioner is not found suitable for giving him higher pay scale from the date of completion of nine years' service by him, a reasoned order may be passed and a copy of the same may be given to the petitioner by registered post A.D. The petitioner may also be specifically intimated, in that case, what are the adversities in his service record. Where the petitioner is found entitled for higher grade as prayed for in this Special Civil Application, he may be given all consequential benefits following therefrom. The Special Civil Application and Rule stand disposed of in aforesaid terms with no order as to costs.

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(sunil)